

Rezoning Review Briefing Report – RR-2023-9

130 Killeaton Street, St Ives – Planning proposal seeks to rezone the site from SP2 Infrastructure (Educational Establishment) to R4 High Density Residential; introduce a maximum building height of 17.5m; and introduce a maximum floor space ratio of 1.3:1.

Element	Description
Date of request	6 April 2023
Department ref. no	RR-2023-09
LGA	Ku-ring-gai
LEP to be amended	Ku-ring-gai Local Environmental Plan (LEP) 2015
Address	130 Killeaton Street, St Ives
Reason for review	<div><input type="checkbox"/> Council notified the proponent it will not support the proposed amendment</div> <div><input checked="" type="checkbox"/> Council failed to indicate support for the proposal within 90 days, or failed to submit the proposal after indicating its support</div>
Has council nominated PPA role	<p>Prior to the lodgement of this review, Council had not refused the planning proposal. However, at the 16 May 2023 Ordinary Meeting of Council, a resolution was passed, detailing that the planning proposal was not supported by Council.</p> <p>Therefore, should the local planning panel recommend the planning proposal proceed to Gateway determination, the panel will assume the planning proposal authority role (PPA) as per the LEP Making Guideline 2022.</p>
Consultation	<p>Ku-ring-gai Local Planning Panel (KLPP) considered the planning proposal on 19 September 2022 and concurred that the proposal has strategic and site-specific merit. The Panel also recommended for the proposal, subject to the proponent making specific amendments, be referred to the Department of Planning and Environment (department) for a Gateway determination (Attachment F).</p>

Brief overview of the timeframe/progress of the planning proposal

15 December 2021: Pre-Planning Proposal meeting held with Council and the proponent.

3 June 2022: Proponent lodges complete planning proposal with Council.

1 September 2022: 90-day threshold passes. Proponent can in theory lodge a rezoning review from this date.

19 September 2022: Proposal considered by KLPP. The panel concurred that the proposal has strategic and site-specific merit and supported the proposal to be referred to the department for a Gateway determination, subject to amendments (as outlined in the table of assessment).

18 October 2022: Proposal considered by Council OMC. The Council report recommendation was to submit the Proposal to the department for a Gateway determination subject to amendments (as outlined in the table of assessment).

Council resolved for the matter to be deferred to enable an inspection of the site by Councillors.

9 November 2022: Councillor site inspection.

15 November 2022: Proposal considered by Council OMC. The Council report recommendation was to submit the Proposal to the department for a Gateway determination subject to amendments (as outlined in the table of assessment).

No decision/resolution was taken by Council in respect to this matter

13 December 2022: Proposal considered by Council OMC. The Council report recommendation was to submit the Proposal to the department for a Gateway determination subject to amendments (as outlined in the table of assessment). Council also tabled a supplementary information report which included the Aboricultural Assessment Report commissioned by Council. This concluded that approximately 45 Sydney Blue Gum trees had been misidentified.

Council resolved to request the proponent to amend the biodiversity impact assessment and arborist report to correctly identify specific trees and for Council staff to reassess the planning proposal with the corrected information and review their recommendation as to whether the proposal should proceed to Gateway.

9 February 2023: Amended reports submitted to Council by proponent to address Council's requested amendments.

Rezoning Review – Briefing Report

PP-2022-1137 (RR-2023-9)



Element	Description
	<p>6 April 2023: Proponent lodges rezoning review through NSW Planning Portal.</p> <p>16 May 2023: Proposal considered by Council OMC. The Council officers' report recommends that the Planning Proposal, as amended by this report, be submitted to the department for a Gateway determination.</p> <p>Council resolved that: the planning proposal is not supported by Council; to advise the department of Council's position that the proposal not be submitted for gateway determination; and that Council updates Greenweb mapping to reflect the occurrence of Sydney Turpentine Ironbark Forest (STIF) and Blue Gum High Forest (BGHF) at 130 Killeaton Street.</p>
Department contact:	Andy Ng – Planning Officer

Planning Proposal

Table 1. Overview of planning proposal

Element	Description
Site Area	2,803sqm
Site Description	<p>The subject site is 130 Killeaton Street, St Ives, legally described as Lot 1 of DP 748682. The site has a northern frontage of 34.6m to Killeaton Street, side boundaries of 84m, and a rear boundary of 34.6m. The total site area is 2,803sqm. The site currently contains a 2 storey dwelling accessed from Killeaton Street.</p> <p>A site context map is provided at Figure 1.</p>
Surrounding Area	<p>The site exists within an established residential area characterised by residential flat buildings to the east and west of the site. These adjoining sites are zoned R4 High Density Residential. Opposite the site to the north side of Killeaton Street is a two-storey aged care facility currently under construction. Adjacent to the site is the Corpus Christi Catholic Church and Primary school to the south west and the Kehillat Masada Synagogue and College to the south east, both within SP2 Infrastructure (Educational Establishment) zoned land.</p> <p>An aerial view of the site is provided at Figure 2.</p>

Rezoning Review – Briefing Report

PP-2022-1137 (RR-2023-9)



Element	Description
Proposal summary	<p>Amend the Ku-ring-gai LEP 2015 to:</p> <ul style="list-style-type: none">• Rezone the site from SP2 Infrastructure (Educational Establishment) to R4 High Density Residential (consistent with adjacent sites);• Introduce a maximum building height of 17.5m consistent with the adjoining land to the east and west of the site; and• Introduce a maximum floor space ratio (FSR) of 1.3:1 consistent with the adjoining land to the east and west of the site. <p>The proposal would facilitate a 5 storey residential flat building with a yield of approximately 40 dwellings.</p>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none">• Greater Sydney Region Plan• North District Plan• Ku-ring-gai LEP 2015• Ku-ring-gai Local Strategic Planning Statement March 2020 (LSPS)• Ku-ring-gai Housing Strategy and Housing Strategy Approval Letter Conditions• State Environmental Planning Policies:<ul style="list-style-type: none">○ SEPP (Resilience and Hazards) 2021○ SEPP (Transport and Infrastructure) 2021○ SEPP (Biodiversity and Conservation) 2021○ SEPP 65 Design Quality of Residential Apartment Development○ SEPP (Building Sustainability Index: BASIX) 2004○ SEPP (Exempt and Complying Codes) 2008○ SEPP (Housing) 2021• S9.1 Ministerial Directions:<ul style="list-style-type: none">○ 1.1 Implementation of Regional Plans○ 1.4 Site Specific Provisions○ 4.4 Remediation of Contaminated Land○ 5.1 Integrating Land Use and Transport○ 6.1 Residential Zones

PP-2022-1137 (RR-2023-9)

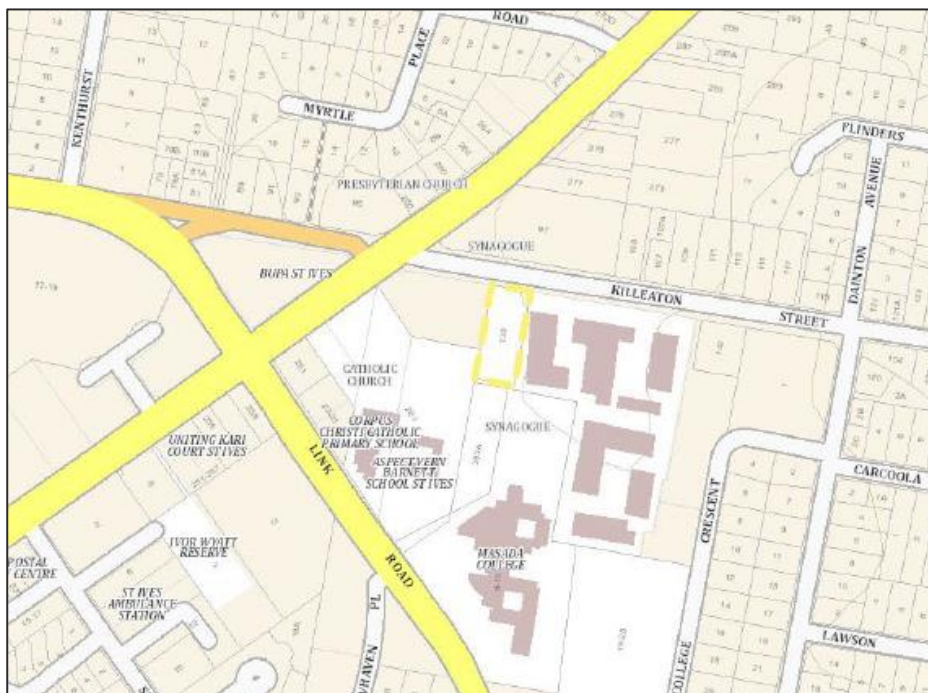


Figure 1. Site context map (Source: *The Planning Hub*)

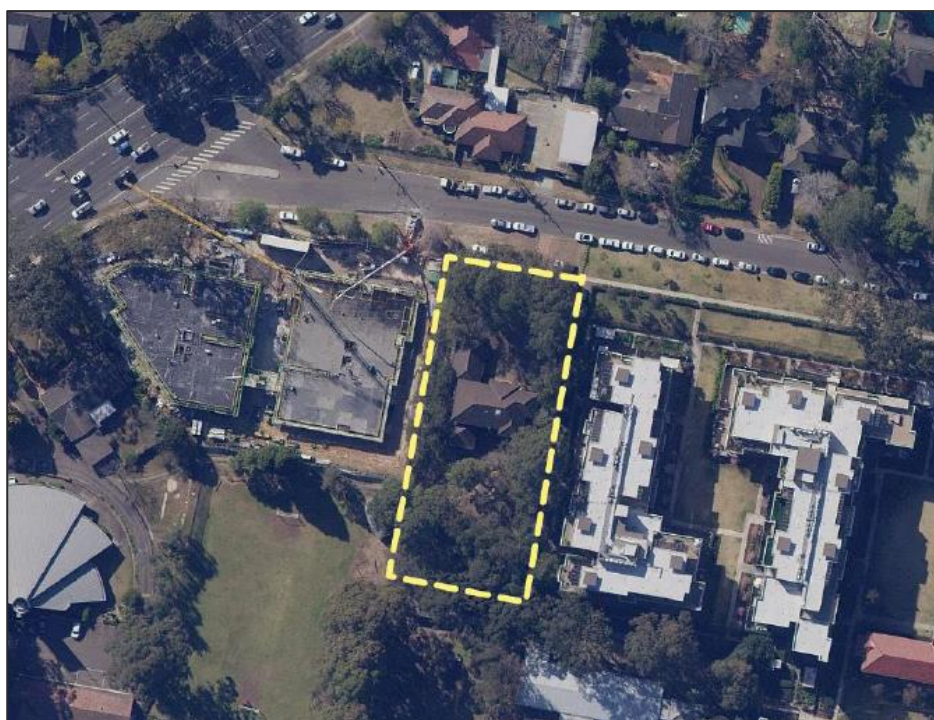


Figure 2. Aerial view of subject site (Source: The Planning Hub)

The planning proposal seeks to amend the Ku-ring-gai LEP 2015 as per the changes in Table 2 below:

Table 2. Current and Proposed controls

Control	Current	Proposed
Zone	SP2 Infrastructure (Educational Establishment)	R4 High Density Residential
Maximum height of the building	No height applies	17.5m
Maximum FSR	No FSR applies	Maximum FSR of 1.3:1
Number of dwellings	1	40 3,643sqm GFA
Number of jobs	0	0

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

Current Mapping

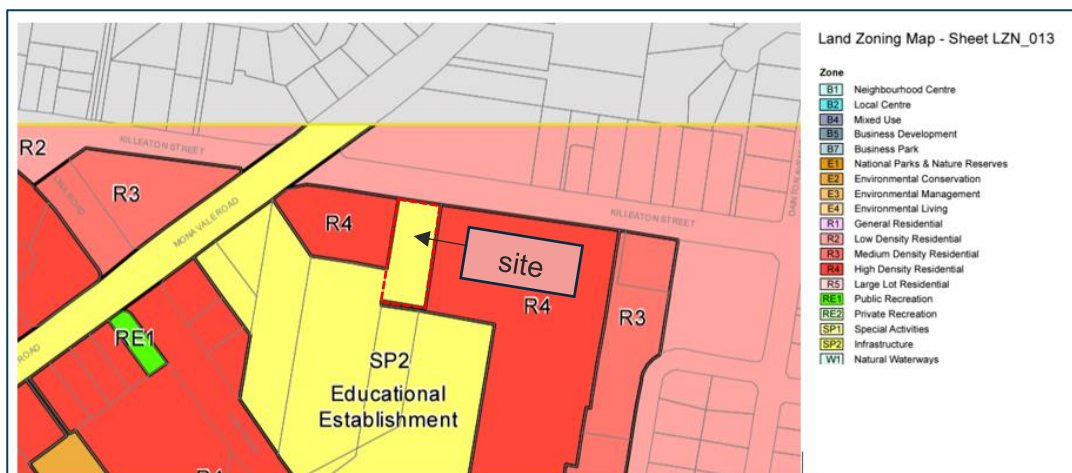


Figure 3. Current land zoning map (Source: Ku-ring-gai LEP 2015)



Figure 4. Current height of building map (Source: Ku-ring-gai LEP 2015)



Figure 5. Current floor space ratio map (Source: Ku-ring-gai LEP 2015)

Proposed Mapping:

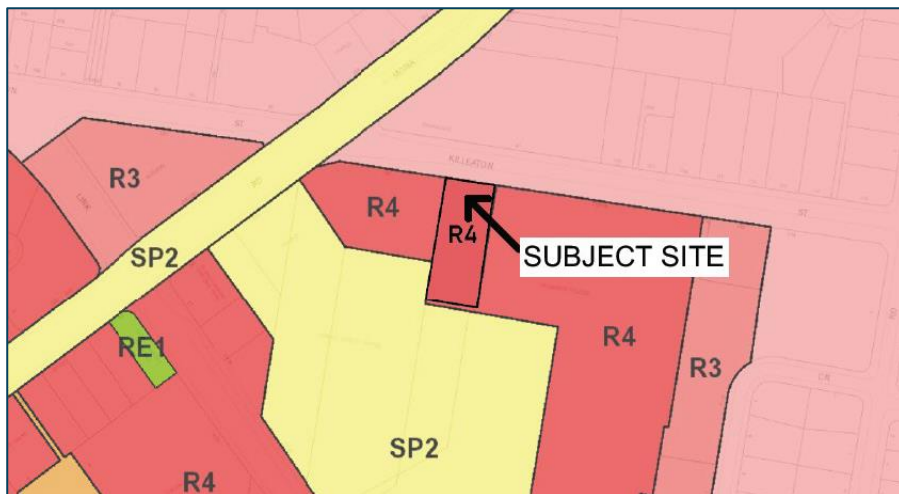


Figure 6. Proposed land zoning map (Source: The Planning Hub)

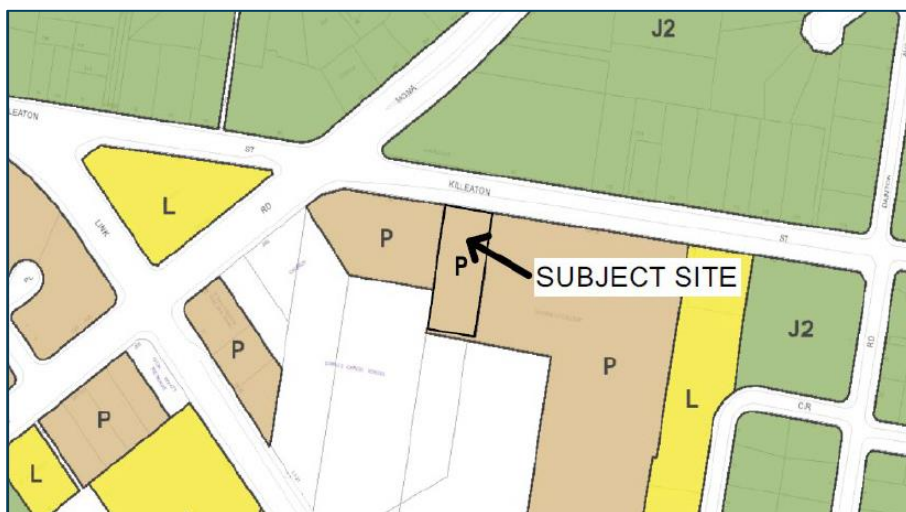


Figure 7. Proposed height of building map (Source: The Planning Hub)

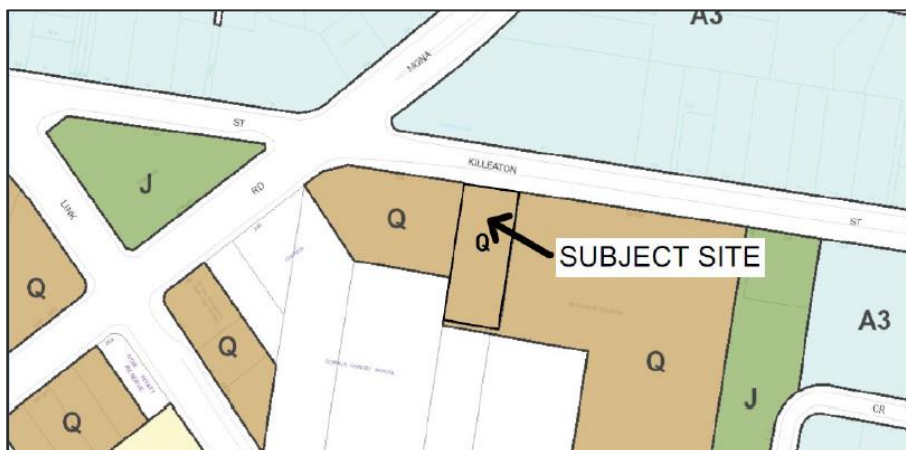


Figure 8. Proposed floor space ratio map (Source: The Planning Hub)

Built Form

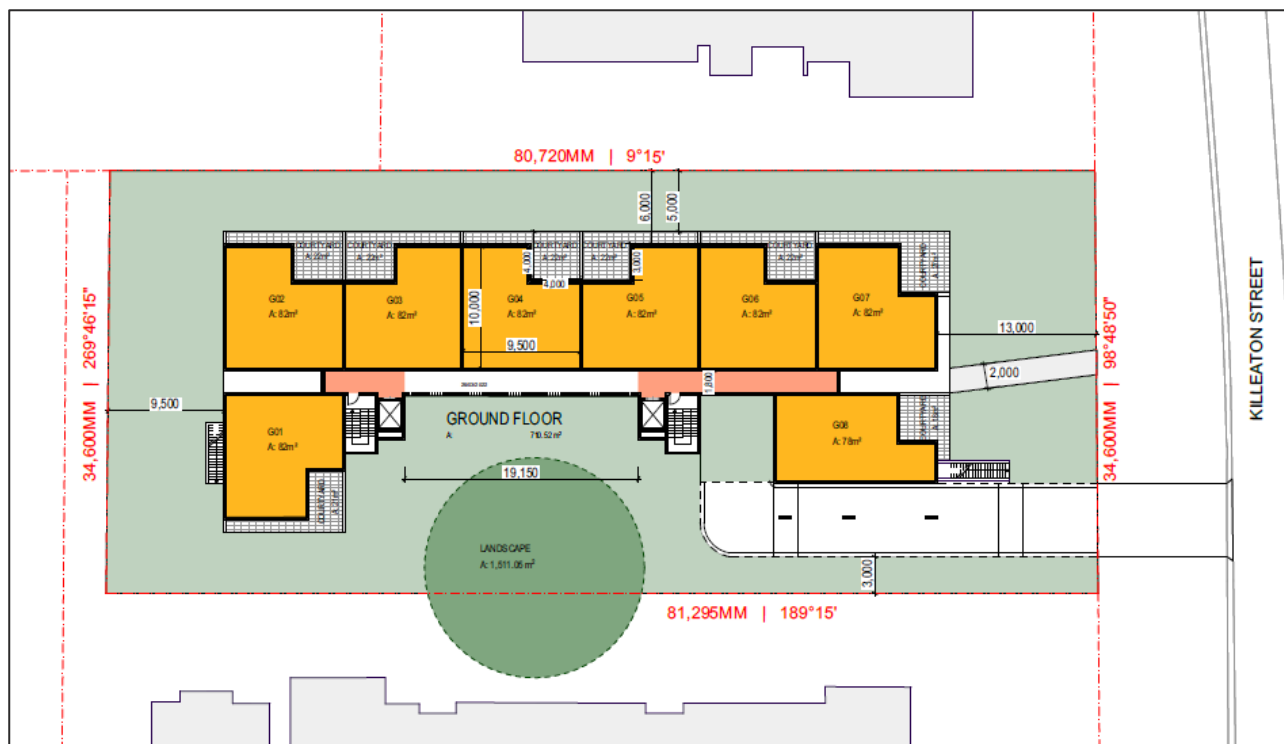


Figure 9. Proposed ground floor plan (Source: mackenzie architects concept architectural plans)

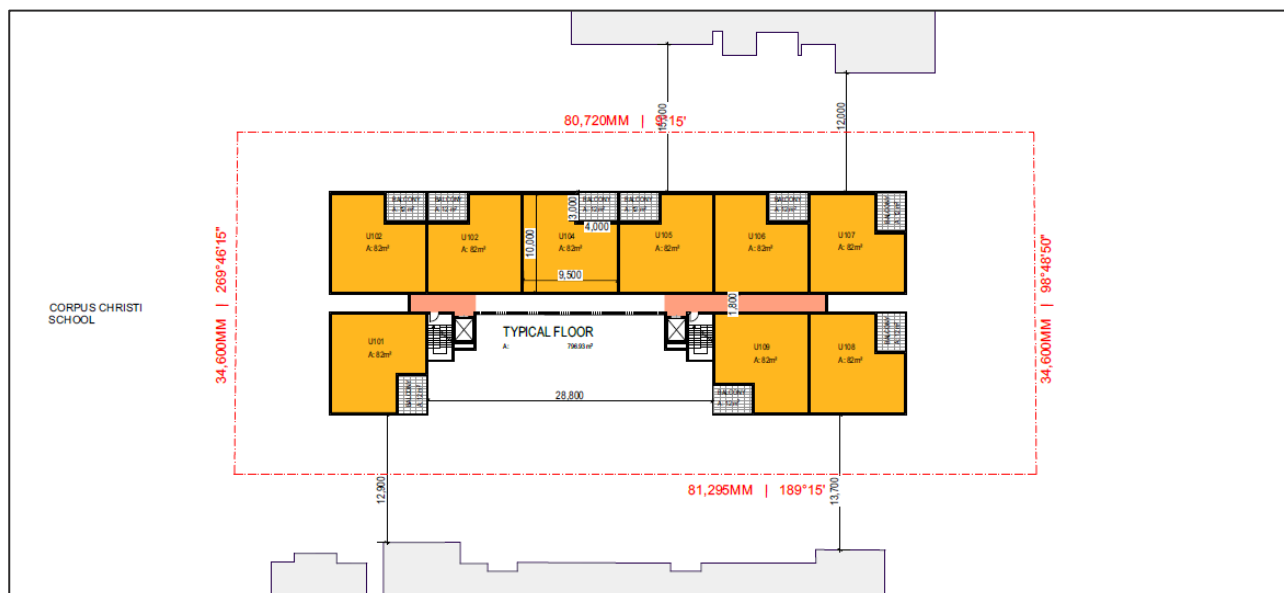


Figure 10. Proposed typical floor plan (Source: mackenzie architects concept architectural plans)

Rezoning Review – Briefing Report

PP-2022-1137 (RR-2023-9)

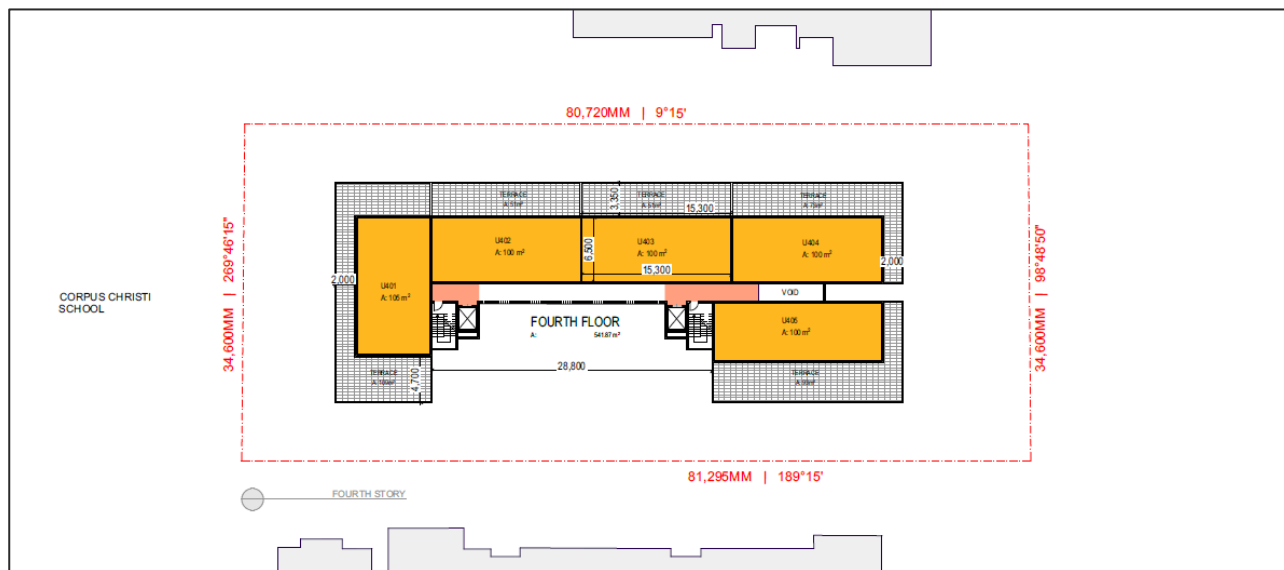


Figure 11. Proposed fourth floor plan (Source: mackenzie architects concept architectural plans)

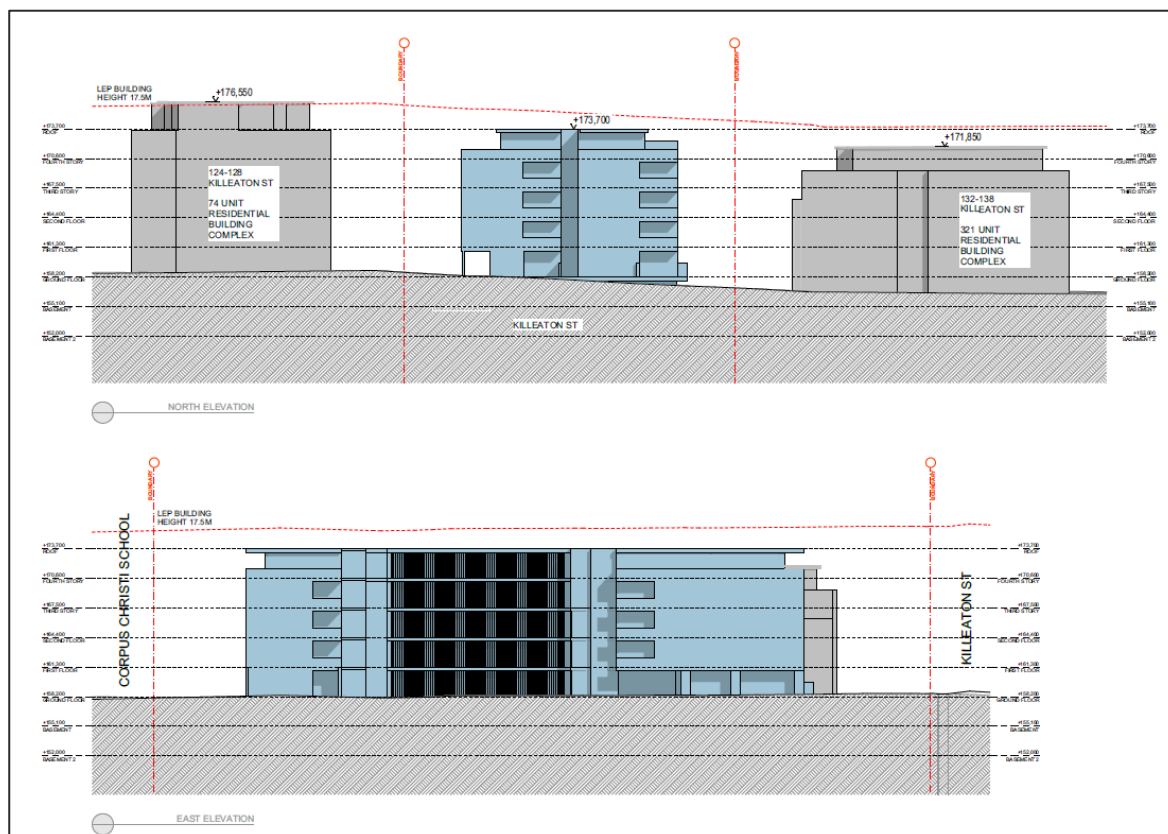


Figure 12. Proposed north and east elevations (Source: mackenzie architects concept architectural plans)

Rezoning Review – Briefing Report

PP-2022-1137 (RR-2023-9)

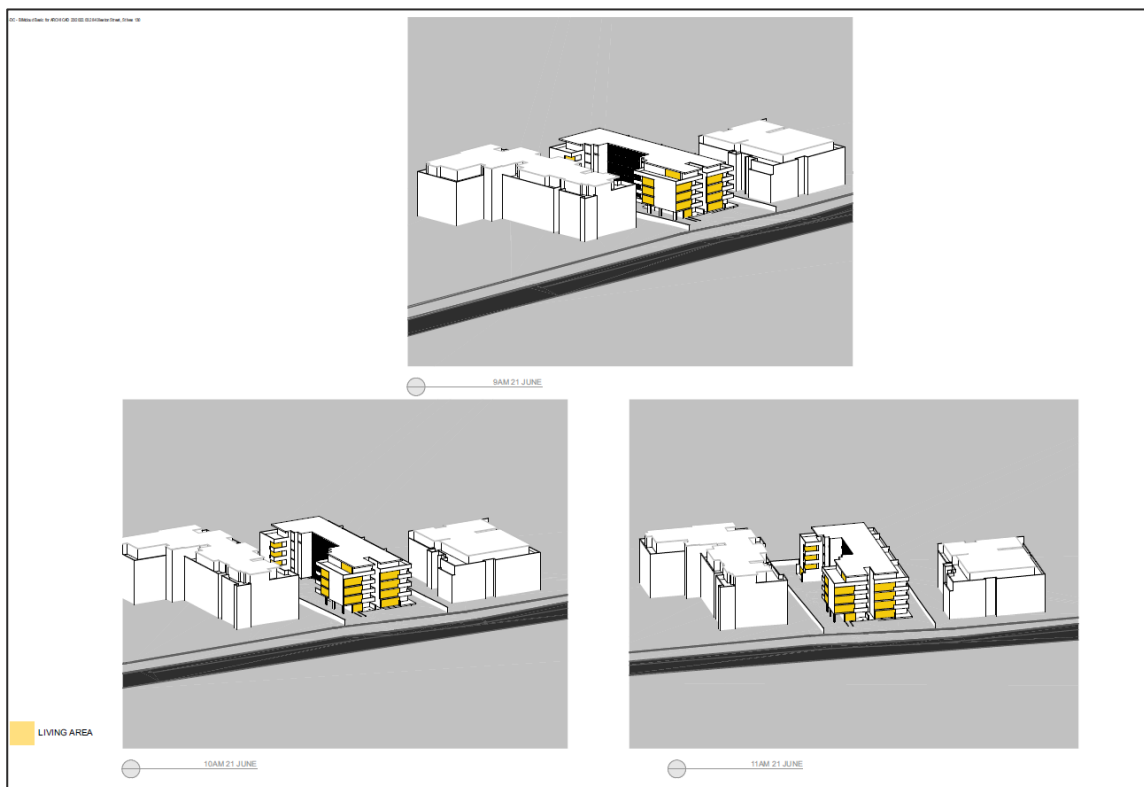


Figure 13. Proposed building massing with 9am-11am solar access (Source: mackenzie architects concept architectural plans)

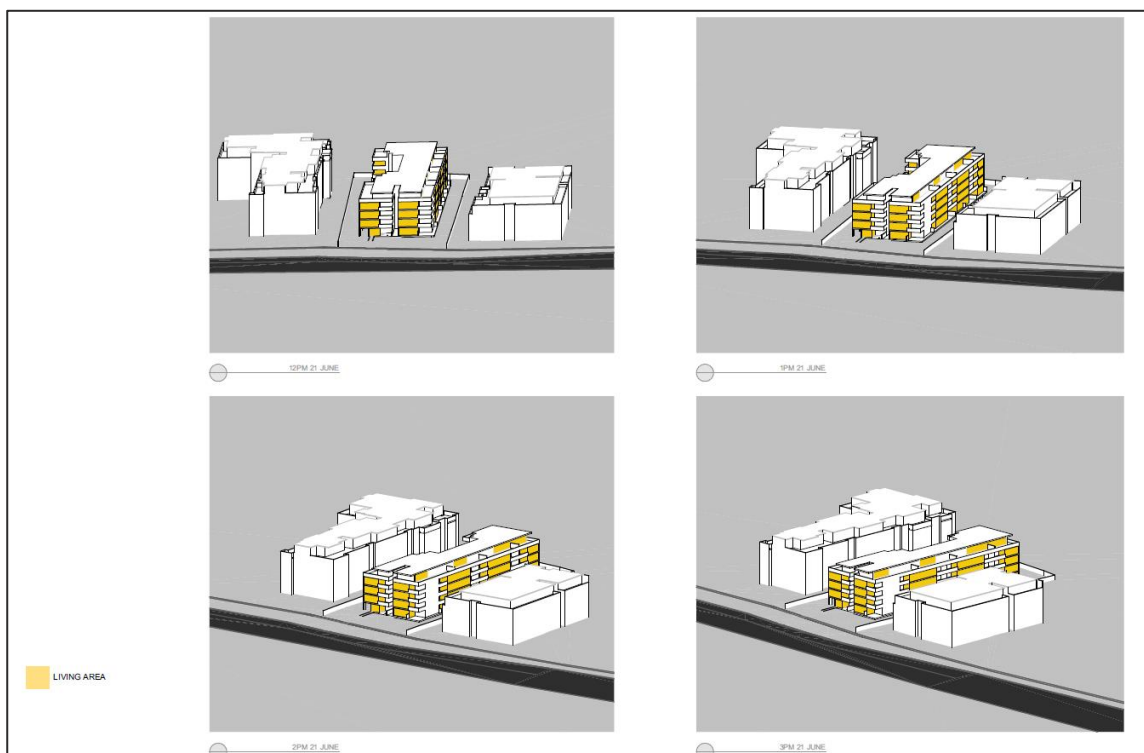


Figure 14. Proposed building massing with 12pm-12pm solar access (Source: mackenzie architects concept architectural plans)

Key Issues

The following section summarises the key issues drawn from the proponent's planning proposal (**Attachment B**), the proponent's rezoning review request (**Attachment A**), the Council reports (**Attachment C-C3**), and Council minutes (**Attachment D-D3**) and Council's response to the rezoning review (**Attachment G**).

Issue No. 1 - Council officers' recommended amendments

- The Council report for the 19 September 2022 KLPP meeting (**Attachment E**), and the 18 October 2022, 15 November 2022, 13 December 2022, and 16 May 2022 OCM reports (**Attachment C-C3**) included a table of assessment. This table includes the suggested amendments required by Council Officers to support the proposal proceeding to gateway as outlined below (except issues related to vegetation on the site):

Planning Proposal

- *Include an analysis that considers the objectives of the Greater Sydney Region Plan in Section B of the Planning Proposal.*
- *Include the amendment to the Terrestrial Biodiversity Map in Part 4 of the Planning Proposal.*

Concept Architectural Plans and Urban Design Report

- *Amend the urban design of the proposed plan by varying the depth of the wall planes, supplemented with architectural elements.*
- *Modify the western elevation of the building to comply with controls 16 and 17 of Section 7C.6 of the DCP.*
- *Amend the design to ensure compliance with the top floor GFA allowance within the DCP.*
- *Include a separate diagram showing Site Coverage Calculations.*
- *Amend the location of the driveway and the proposed basement layout to comply with the requirements of Section 7A.3 of the DCP as well as tree protection as noted in the comments provided on the Biodiversity Impact Assessment.*

Council view

- The various Council reports (not the resolved position) and the 19 September 2022 KLPP (panel advice) indicate that the proposal has sufficient strategic and site-specific merit to enable it to proceed to Gateway determination, subject to the required amendments (outlined in the table of assessment).
- The 16 May 2023 OMC Council report (tabled after the proponent submitted the rezoning review on 6 April 2023) recommends the planning proposal, subject to amendments, be submitted to DPE for a Gateway determination. However, Council resolved to not support the planning proposal to be submitted to the department for a Gateway. It is noted that the report does not directly indicate whether the proponent's revised planning proposal and updated supporting reports, submitted on 9 February 2023, satisfactorily address all of Council's requested amendments.

Proponent view

- On 9 February 2023 the Proponent submitted amended reports in response to Council's requested amendments. Following this and prior to the Proponent submitting the rezoning review on 6 April 2023, Council did not provide any feedback on the updated proposal and particularly as the proposal was not reported back to Council within this period.
- Since the lodgement of the rezoning review, and Council's subsequent resolution on 16 May 2023 to not support the proposal, the Proponent has not provided any further comment or information.

Issue No.2 – Council officers' recommended vegetation amendments

- The 19 September 2022 KLPP meeting report (**Attachment E**), and the Council reports for the OMC on 18 October 2022, 15 November 2022, 13 December 2022, and 16 May 2023 (**Attachment C-C3**) included a table of assessment (also outlined in Issue 1). This table includes the suggested amendments required by Council Officers to support the proposal proceeding to gateway, with the issues specifically related to vegetation outlined as follows:
 - Biodiversity Impact Assessment*
 - Amend the planting palette to be comprised of STIF species.
 - Arborist Report*
 - Amend the Tree Schedule within the Arborist Report to incorporate the identified trees to facilitate appropriate protection.
 - Amend Arborist Report to rectify the two incorrectly identified trees (Tree 20 and Tree 75).

Council view

- The various Council reports (not the resolved position) and the 19 September 2022 KLPP (panel advice) indicate that the proposal has sufficient strategic and site-specific merit to enable it to proceed to Gateway determination, subject to the required amendments (as outlined in the table of assessment).
- The 13 December 2022 OMC Council report (**Attachment C2**) includes a supplementary Council report that contains the Aboricultural Assessment Report (Waratah Eco Works - Nov 2022) commissioned by Council. The Council report highlights that, "*this report concludes that the trees identified as Eucalyptus grandis (Flooded Gum) in the (Planning Proposal) Biodiversity Impact Assessment and the Arborists Report are in fact Eucalyptus Saligna (Sydney Blue Gum).*" It is noted that the aboricultural report indicates that 45 *Eucalyptus Saligna* trees been misidentified.
- Council subsequently resolved at the 13 December 2022 OMC (**Attachment D2**) as recommended in the Council supplementary report:
 - "A. That the proponent be requested to amend the Biodiversity Impact Assessment and the Arborists Report to correctly identify all trees currently listed as *E. grandis* (Flooded Gum) and *E. saligna* (Sydney Blue Gum). The

findings and recommendations of the Biodiversity Impact Assessment, Arborists Report and Planning Proposal are to be amended accordingly”.

B. That Council staff reassess the planning proposal with the corrected information and review their recommendation as to whether the planning proposal should proceed to a Gateway determination or not.”

- The 16 May 2023 OMC Council report (**Attachment C3**) recommends the planning proposal, as amended by this report, be submitted to DPE for a Gateway determination. The Council report does not directly indicate whether the proponent's updated planning proposal and amended studies, submitted on 9 February 2023, satisfactorily meets the Council's requested amendments. However, it concludes that *“to facilitate accurate environmental assessment, it is recommended that Ku-ring-gai's Terrestrial Biodiversity Map and Greenweb mapping be updated to include STIF vegetation on the subject Lot.”*
- Council resolved at the 16 May 2023 OCM (**Attachment D3**)
 - “A) That the planning proposal is not supported by Council;*
 - B) That the NSW Department of Planning and Environment be advised of Council's position and the Planning Proposal not be submitted for a Gateway Determination in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979; and*
 - C) That Council updates Greenweb mapping to reflect the occurrence of Sydney Turpentine Ironback Forest (STIF) and Blue Gum High Forest (BGHF) at 130 Killeaton Street, St Ives.”*

Proponent view

- On 9 February 2023 the Proponent submitted amended reports in response to Council's requested amendments, including the vegetation issues. Following this and prior to the Proponent submitting the rezoning review on 6 April 2023, Council has not provided any direct feedback on whether the Proponent's updated reports satisfactorily address the requested amendments.
- Since the lodgement of the rezoning review, and Council's subsequent resolution on 16 May 2023 to not support the proposal, the Proponent has not provided any further comment or information.



Date: 19 July 2023

David Hazeldine

Manager, Place and Infrastructure, North District



Date: 22 July 2023

Brendan Metcalfe

Director, North District, Metro Central and North

Assessment officer

Andy Ng

Planning Officer, North District

9585 6438

Attachments

Attachment A – Rezoning review request letter (5 April 2023)

Attachment B – Planning Proposal (May 2022)

Attachment B1 – Amended Arborist Report

Attachment B2 – Amended Biodiversity Impact Assessment

Attachment B3 – Concept Architectural Plans

Attachment B4 – Preliminary Site Investigation

Attachment B5 – Survey Plan

Attachment B6 – Traffic and Transport Report

Attachment B7 – Urban Design Report

Attachment C – Council Meeting Agenda (18 October 2022)

Attachment C1 – Council Meeting Agenda (15 November 2022)

Attachment C2 – Council Meeting Agenda (13 December 2022)

Attachment C3 – Council Meeting Agenda (16 May 2023)

Attachment D – Council Meeting Minutes (18 October 2022)

Attachment D1 - Council Meeting Minutes (15 November 2022)

Attachment D2 - Council Meeting Minutes (13 December 2022)

Attachment D3 - Council Meeting Minutes (16 May 2023)

Attachment E – KLPP Agenda (19 September 2022)

Attachment F – KLPP Minutes (19 September 2022)

Attachment G – Council's response to the rezoning review request (19 May 2023)